

MILITIAS THREATEN HOPES FOR NEW LIBYA

**AMNESTY
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CONTENTS

1. INTRODUCTION	5
About this report.....	9
2. DETENTIONS OUTSIDE LEGAL FRAMEWORK.....	10
Arbitrary detention.....	10
Unauthorized interrogations.....	11
Coerced confessions.....	11
‘Shuttling’ detainees between militias and unlawful places of detention.....	12
3. TORTURE AND OTHER ILL-TREATMENT	14
Detainees of Tawargha origin	17
Detainees of Mshashiya origin	18
Detainees from Sub-Saharan Africa	19
4. DEATHS IN CUSTODY.....	22
5. REVENGE ATTACKS AND FORCIBLE DISPLACEMENT.....	26
Tawargha people.....	26
Mshashiya people	28
‘Outsiders’ targeted	29
Misratah “returnees”	29
6. CONTINUING SCOURGE OF IMPUNITY.....	32
INEFFECTIVE PROSECUTION SYSTEM.....	33
7. CONCLUSIONS AND RECOMMENDATIONS	35

Endnotes.....	37
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1. INTRODUCTION

'The lack of oversight by the central authority creates an environment conducive to torture and ill-treatment'

Navi Pillay, UN Commissioner for Human Rights, 26 January 2012

Lawlessness still pervades Libya a year after the outbreak of the uprising which ended 42 years of Colonel Mu'ammar al-Gaddafi's repressive regime. Hundreds of armed militias, widely hailed in Libya as heroes for their role in toppling the former regime, are largely out of control. Their actions, and the refusal of many to disarm or join regular forces, are threatening to destabilize Libya, hinder the much-needed building of accountable state institutions based on the rule of law, and jeopardize the hopes of millions of people who took to the streets a year ago to demand freedom, justice and respect for human rights and dignity.

Hundreds of armed militia groups, established at local levels during the fighting, continue to operate largely independently of the central authorities, often effectively controlling specific areas or neighbourhoods. Some militia members have a military background but most were civilians. Militias have established sometimes fluid networks of co-operation. Frequent armed clashes between different militia groups have caused death and injury among fighters and uninvolved bystanders.¹

In 2011, thousands of mainly young men took up arms under the banner of the National Transitional Council (NTC) – the loosely structured opposition leadership formed at the end of February – to overthrow the old order. After opposition fighters, backed by NATO strikes took control of most of the country in late August, the NTC failed to get a grip on these militias. Despite pledges to bring to justice those who committed war crimes and human rights abuses on both sides, the authorities have so far failed to take action against suspects who fought with the NTC forces, sustaining a climate of impunity for human rights abuses.

Militias took captive thousands of suspected al-Gaddafi loyalists, soldiers and alleged foreign "mercenaries", many of whom were tortured or ill-treated in custody, in some cases leading to death. Scores of suspected al-Gaddafi loyalists were unlawfully killed following capture, among them the ousted Libyan leader himself and one of his sons. Militias also looted and burned homes and carried out revenge attacks and other reprisals against alleged al-Gaddafi supporters, forcibly displacing tens of thousands of people.

Militias also continue to seize and detain people, outside any legal framework, and hold them in secret detention centres before handing them over to other facilities run by officially

or semi-officially recognized military or security entities. The captors do not identify themselves, though the name of the militia is often daubed on their vehicles, and no indication is given to their relatives as to their destination. Despite releases, thousands of detainees remain held without trial or any means to challenge the legality of their detention.

In January and early February 2012, Amnesty International delegates interviewed scores of victims of torture who were held in and around Tripoli, al-Zawiya, Gharyan, Misratah, and Sirte, as well as several families of people who died in the custody of militias after they were tortured. Detainees told Amnesty International that they had been suspended in contorted positions; beaten for hours with whips, cables, plastic hoses, metal chains and bars, and wooden sticks; and given electric shocks with live wires and taser-like electro-shock weapons. The patterns of injury observed were consistent with their testimonies. Medical reports confirmed the use of torture on several detainees who had died.

Most of the militia-held detainees interviewed were Libyans suspected of having supported or fought on behalf of al-Gaddafi forces during the conflict. Hundreds of foreign nationals, mostly sub-Saharan Africans, also continue to be detained, often for no more than having entered Libya irregularly and regardless of the fact that they may be entitled to international protection, and some of them said they were tortured.

Detainees are often tortured immediately after being seized by militias and subsequently during interrogation, including in officially recognized detention centres. To date, detainees have not been allowed access to lawyers, except for rare cases in eastern Libya. Several told Amnesty International that they had confessed to crimes they had not committed just to end the torture.

Some detainees were too scared to speak – fearing further torture if they did so – and were only prepared to show Amnesty International delegates their torture wounds. Human rights defenders, prosecutors, doctors and many others, including militia members opposed to such abuses, told Amnesty International delegates that they were too afraid to speak publicly about militia abuses they had witnessed. Their fears are justified – people who lodged complaints about abuses reported receiving threats or being attacked by militias.

The Libyan authorities have been alerted on numerous occasions to the ongoing abuses by militias. In May 2011 Amnesty International submitted a memorandum to the NTC detailing patterns of abuses by then opposition fighters, including torture of detainees and deliberate killings of captured fighters and detainees. In September and October 2011, Amnesty International published two reports which described abuses by militias, including torture that it had investigated in previous months.² On 26 January 2012, Médecins Sans Frontières (MSF) suspended its work at a clinic in a detention centre in Misratah because of ongoing torture of detainees during interrogations. The same day, Amnesty International reported recent incidents of death in custody and torture in Tripoli, Misratah and Gharyan. The Prime Minister and Deputy Prime Minister announced that more detention centres would be brought under the control of the authorities³ and promised to investigate the reported abuse, whereas Ibrahim Betelmal, the head of one of the interrogation centres in Misratah where detainees are frequently tortured, accused both organizations of being supporters of the al-Gaddafi regime. He did, nevertheless, acknowledge that there “may have been a few cases of former rebels taking revenge”, but insisted that he had not given orders to torture.⁴ Also

on 26 January 2012, the UN Commissioner for Human Rights, Navi Pillay, expressed concern that “the lack of oversight by the central authority creates an environment conducive to torture and ill treatment” and called on the Libyan authorities to take control of all makeshift prisons to prevent further atrocities.⁵

However, the NTC-led transitional government appears to have neither the authority nor the political will to rein in the militias, many of which are reluctant to disband or submit to the central authority. The authorities have been unwilling to recognize the scale of militia abuses, at most acknowledging individual cases despite the mounting evidence of patterns of grave, widespread abuses in many parts of the country. This, together with a lack of action to hold perpetrators to account, is sending the wrong message to the militias and encouraging further abuses. Indeed, the failure of the authorities to even begin to investigate with a view to bringing to justice former anti-Gaddafi fighters responsible for war crimes during the conflict and human rights abuses has perpetuated the climate of impunity for such crimes.

Amnesty International welcomed the NTC’s publicly stated commitment to respect international human rights law, and its calls on supporters to treat captives with dignity and to avoid revenge attacks and other reprisals. In response to an Amnesty International report in September 2011, the NTC pledged to put “its efforts to bring any armed groups under official authorities and will fully investigate any incidents brought to its attention.”⁶

This pledge has not, however, been fulfilled and no action has been taken to investigate even the most serious abuses committed by former opposition fighters and militias and to bring those responsible to justice. For example, no investigation has been carried out into the killing of some 65 civilians and al-Gaddafi loyalists whose bodies were found on 23 October 2011 in the Mahari Hotel in Sirte, despite clear evidence identifying some of the perpetrators. Similar impunity has been apparent in other cases highlighted in this report involving people who were tortured to death, even though the prosecutors have seen the scarred bodies of the victims, families have lodged complaints, and Amnesty International and others have publicized the cases.

After four decades of widespread human rights abuses and authoritarian rule under Colonel al-Gaddafi, the new Libyan authorities face the daunting task of establishing a proper foundation for the rule of law and respect for human rights. Under the previous regime, most opponents were silenced, in prison or in exile. Draconian legislation outlawed dissent and the establishment of independent organizations. Hundreds of political prisoners were detained arbitrarily. Special courts sentenced opponents after grossly unfair trials. Impunity for torture, extrajudicial executions and enforced disappearances was deeply entrenched. During the eight-month conflict in 2011, al-Gaddafi forces executed many prisoners in their custody and committed war crimes and other human rights abuses. Thousands of people lost their lives fighting to overthrow the government, some slaughtered in groups after they had been rounded up by soldiers. Many of those in today’s militias suffered under the old regime and saw their friends and relatives die in the conflict; some of them want revenge or to exact vigilante-style justice.

Confronting the militias, holding them to account for their actions and enforcing the rule of law are undoubtedly hugely difficult challenges for the NTC, which itself is an interim body

without the authority of a democratic mandate. Elections, if they happen on schedule, are due to take place in June 2012. The authorities are also confronted by continuing fighting between rival militias in what appear to be battles to carve out fiefdoms and areas of control.⁷

An ultimatum of 20 December 2011 set by the government for militias to leave Tripoli has been ignored⁸ and programmes for integrating members of militia into regular forces are making slow progress. The authorities must ensure that those who have committed or acquiesced in human rights abuses are excluded and not placed in positions where they could repeat their abuses. Those who are suspected of having committed war crimes and serious abuses must be excluded pending investigation and prosecution.

Another challenge is to tackle the widespread discrimination and xenophobia against sub-Saharan Africans and dark-skinned Libyans from Tawargha and other parts of Libya where support for al-Gaddafi forces during the conflict was reportedly high. The 30,000 residents of the town of Tawargha, who were forcibly displaced during the conflict, are still barred from returning to their town, where their homes have been looted and burned down. They remain in poorly resourced camps in Benghazi, Tripoli and elsewhere in Libya and face an uncertain future. So far the NTC has been unwilling to take on the militias and local authorities in Misratah who are determined not to allow the residents of Tawargha to return home. Similarly, thousands of people have been evicted or fled their homes in the Nafusa Mountains, mainly people from the Mshashiya and Qawalish tribes, as well as in Sirte and Bani Walid, and remain targeted by militias because of their alleged support for al-Gaddafi forces during the conflict.

It is crucial that the new authorities take concrete steps to show all Libyans that the four decades of repression and widespread human rights abuses are over, and that everyone will be equally protected by the law. They must make it clear that torture, revenge attacks by militia or any other forms of human rights abuse will not be tolerated and that perpetrators will be held accountable – regardless of their political affiliation or other role or connections. Among other things, Amnesty International urges the authorities to:

Enhance efforts to rein in militias and establish security forces that are trained to respect human rights.

Order the closure of all unofficial places of detention, including those in the headquarters of militias; establish mechanisms to bring all places of detention under the control of the authorities; and ensure effective oversight over detention procedures and practices.

Notify detainees' families of where they are detained and ensure that all detainees are allowed access to lawyers.

Ensure that prompt investigations are carried out into all known or reported cases of torture and other ill-treatment; and where there is sufficient admissible evidence; bring suspects to justice in fair trials and without the possibility of the death penalty.

Ensure that people who have been forcibly displaced are allowed to promptly return to their homes and that their safety is guaranteed and that they receive redress, including

compensation and assistance to rebuild their homes and their lives.

ABOUT THIS REPORT

This report is based on findings by an Amnesty International research visit to Libya in January and February 2012, during which the organization's delegates carried out research in and around Tripoli, al-Zawiya, the Nafoussa Mountains, Misratah, Sirte and Benghazi. Delegates visited 11 detention facilities in central and western Libya used by various militias to hold people; several locations were visited more than once. Delegates were told that at 10 of these locations, detainees were tortured or ill-treated, and at seven of the locations were shown injuries resulting from recent abuse. At one detention centre, an Amnesty International delegate witnessed detainees being beaten and threatened.

Amnesty International delegates met detention administrators, hospital staff, doctors, lawyers, detainees, former detainees, relatives of people killed or abused in detention, as well as militia members and representatives of the Libyan authorities.

Some names of individuals whose cases are included in this report, as well as the names and exact locations of some detention facilities and some militia, have been withheld to protect people from reprisals.

2. DETENTIONS OUTSIDE LEGAL FRAMEWORK

"(...) No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

International Covenant on Civil and Political Rights (Article 9.1)

Thousands of detainees remain held in scores of detention facilities in Libya where torture is rife, resulting in several known deaths. The exact numbers of detainees and detention centres are not known. The International Committee of the Red Cross (ICRC) reported in December that since March it had "visited over 8,500 detainees in about 60 places of detention."⁹ Most detainees are believed to be held in and around the cities of Tripoli and Misratah.

In early February 2012, some 2,400 detainees were reportedly in detention facilities under the control of the judicial authorities. However, the majority of detainees remain held by officially recognized military and security entities and by militias operating outside the law.

ARBITRARY DETENTION

During and in the weeks after the conflict, militias focused almost entirely on detaining suspected al-Gaddafi supporters and soldiers, including suspected foreign "mercenaries" – most of whom were in fact migrant workers. Since then, militias have also been detaining criminal suspects, also outside the legal framework. In Tripoli and Sirte, Amnesty International spoke to detainees accused of theft, drinking alcohol and being involved in fights. In both places, those in charge of the detention centres told Amnesty International that these detainees would be released shortly because "their offences were not serious". It was not clear on what basis the militias decide how long such detainees will remain held. As well, there have been allegations of militias detaining people in order to extort money from them or their families.

On 29 November 2011, the Interior Ministry issued a decree prohibiting arrests and interrogations of detainees by "revolutionary brigades" – i.e. militias. However, this decree continues to be widely ignored. Members of militias who have not been integrated into regular forces told Amnesty International that they continue to detain people, including at the request of the police. Virtually all detainees and former detainees interviewed by Amnesty

International were never shown an arrest warrant; a few said that they had been shown documents issued by the militia detaining them.

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Libya is obliged to prevent arbitrary arrest and detention and to allow anyone deprived of their liberty an effective opportunity to challenge the lawfulness of their detention before a court (Article 9 of the ICCPR). It must ensure that those arrested are promptly informed of any charges against them. Those charged must be brought before the judicial authorities within a reasonable time. Libya's Code of Criminal Procedure sets 48 hours as the limit for referring suspects to the General Prosecution, extending the limit to seven days for "offences against the state".

Some safeguards against arbitrary arrest and detention are included in Libyan law. For instance, Article 14 of Law No. 20 of 1991 on the Promotion of Freedoms stipulates: "No one can be deprived of his freedom, searched or questioned unless he has been charged with committing an act that is punishable by law, pursuant to an order issued by a competent court, and in accordance with the conditions and time limits specified by law". Other safeguards include the requirement for security officers to hold a warrant from the competent authority when arresting or detaining a suspect (Article 30 of the Code of Criminal Procedure), the requirement to detain suspects only in "prisons designed for that purpose" (Article 31), and the right of detainees to challenge the legality of their detention (Article 33).

UNAUTHORIZED INTERROGATIONS

At several detention centres visited by Amnesty International delegates in January in western and central Libya, interrogations were conducted by self-appointed "judicial committees" which operate as a sort of parallel prosecution, outside the legal framework, but have acquired de facto competence to decide on the release or ongoing detention of detainees.

Members of these "judicial committees" said that they had to take on the task of prosecutors because the judicial system was not working. Indeed, the "judicial committees" have been frequently referred to as the "prosecution" by both the administrators of detention centres and detainees. Many members of these "judicial committees" appeared to have a legal background, though not necessarily any prosecutorial experience and appear to work closely with the leadership of the militia or any other entity in control of the particular detention centre.

All interrogations of detainees by members of such "judicial committees" have been conducted without the presence of defence lawyers and many detainees told Amnesty International that they had been coerced into giving self-incriminating testimonies. Members of such "judicial committees" expressed their expectation that testimonies and possibly other evidence gathered by them would constitute the basis for prosecution.

COERCED CONFESSIONS

Amnesty International interviewed several detainees who were presented by the administrators of detention centres as having "confessed" to rape during the conflict. When speaking to the detainees in private, some were clearly unaware of such allegations against

them and most said that they had been coerced into “confessing” to them. Some clearly feared that withdrawing their “confession” would result in further torture. Some were too scared to talk and just pointed at visible traces of abuse on their bodies. Many detainees who had signed a “confession” stated that they did so without having read it.

A 23-year-old soldier, **A1**, was detained in Tripoli in early September 2011 and directly transferred to Misratah. There, he was coerced to “confess” to having committed rape during the conflict. Amnesty International was allowed to examine his testimony, which had been signed in October. It contained the names of several soldiers with whom A1 had allegedly raped women on several occasions. However, according to an interrogator at the detention facility, none of the named soldiers has so far been detained. When Amnesty International delegates met A1 in private, he was terrified that the conversation could be overheard. However, he stated that he did not commit the crimes he had “confessed” to and explained that he had been severely beaten at the time of his “confession”.

A2, a 28-year-old soldier, was detained by a militia in mid-September 2011 in Tripoli, where he was held and tortured for about three weeks before being taken to Misratah, where he was tortured again. He remains held there. When Amnesty International delegates met him in private at the detention centre, he said that because of the torture he suffered in detention in Misratah, he testified that he had witnessed other soldiers committing crimes during the conflict. He stated that during the interrogation sessions he was beaten with a hose and a stick, including on his chest, and as a result could not eat for several days. He also showed Amnesty International delegates scars of burn injuries on both of his legs and his right arm. He said that he had been blindfolded when he was burned, and that he could not read the statement that he signed. Amnesty International delegates were allowed to examine A2’s testimony – about 20 handwritten pages. It included several names of people who had allegedly committed war crimes, including killing of prisoners and rape.

The judicial authorities have taken control of several detention centres, including the dossiers on detainees produced on the basis of interrogations by “judicial committees”. They should publicly declare that incriminating testimony recorded by any unauthorized bodies, including “confessions” that may have been obtained under coercion, will not be accepted as evidence in any future trial of anyone. Fundamental fair trial rights include “the right not to be compelled to testify against oneself” (Article 14.3 of the ICCPR).

‘SHUTTLING’ DETAINEES BETWEEN MILITIAS AND UNLAWFUL PLACES OF DETENTION

Various militias are operating discrete and sometimes fluid networks of co-operation. At some detention centres, those in charge named other militias with which they were mainly co-operating, including with regard to the seizure, detention and interrogation of people.

Numerous militias have established bases at different locations. Particularly in Tripoli, an unknown number of militias from outside the capital have established a presence, enabling them to detain people at different locations. Many detainees told Amnesty International that they had been held at a number of locations, and their transfer often lasted several hours. Upon arrival at each new place of detention, some in secret locations and some in squatted houses of perceived or real supporters of al-Gaddafi, detainees were often beaten with sticks or the butts of rifles, or otherwise tortured and ill-treated, and sometimes given electric

shocks using taser-like instruments.

Interrogations are not necessarily conducted at the location where detainees are held the longest. In fact, many detainees expressed fear of being taken for interrogation to other locations that have a reputation for abuse. Although MSF had a clinic in the only detention centre in Misratah where detainees say there is no torture or ill-treatment they suspended their work there after 26 January 2012 because they said that detainees were being brought to them for medical care in order to make them fit for further abusive interrogation elsewhere. MSF said that on 3 January its staff had treated a group of 14 torture victims who had been returned to the jail from an interrogation centre. The need for further essential medical care was refused by those responsible at the interrogation centre and 13 of the detainees were again taken away for further interrogation.¹⁰

At two interrogation centres in Misratah visited in January run by the Security Committee and the National Military Security, Amnesty International delegates challenged those in charge of interrogations about the abuses of detainees who had visible and extensive torture wounds. They were told that the detainees had been delivered in this condition by the militia that had detained them and acknowledged that the identity of those who brought in the detainees had not been recorded.

However, while some of the detainees confirmed that they had indeed been tortured and abused by the militias who first detained them, others said that they had been tortured in the interrogation centres themselves. Their allegations were supported by the fact that they had been held in the interrogation centres for weeks and that they had fresh injuries and torture marks.

As well, detainees are sometimes abused or tortured by militia members who enter the detention centres. The authorities in charge of the detention centres are generally unable or unwilling to intervene to stop and prevent the attacks. For example, on 29 January 2012 at the Wahda detention centre in Misratah, which is now supposedly under the authority of the Ministry of Justice, Amnesty International observed three militia men beating and threatening some detainees whose release had been ordered and who were waiting in the courtyard to leave. One of the militia men kept kicking and threatening to kill an older detainee who was cowering, squatting against the wall, and crying. When the Amnesty International delegate challenged him, he responded that “those Tawargha must not be released or we’ll kill them”.

3. TORTURE AND OTHER ILL-TREATMENT

'Two live wires were connected to the toes of my feet... They gave me electric shocks six or seven times.'

A 22-year-old graduate in computer science, speaking to Amnesty International in January 2012 about the torture he suffered the previous month

After areas of Libya came under NTC control, militias took captured individuals to makeshift detention centres where detainees were particularly vulnerable to torture and other ill-treatment. Since then, people detained by militias are also held at detention centres under the control of the judicial authorities; these include Jdeida Prison, Maftuh Prison and Ain Zara Prison, all in Tripoli.

Torture and ill-treatment appear to be most common in the first days of detention, but in many cases the abuse continues for much longer. Many detainees told Amnesty International that they had been beaten, including with sticks, whips and rifle butts. Several said they suffered other forms of torture, including electric shocks, burns, and threats of rape or death. Forensic examinations of some of those who died in detention provide further evidence that such methods are still being used. In none of the cases highlighted below or documented in previous reports has any effective investigation been carried out and none of the perpetrators has been brought to justice, even though in several cases there is strong evidence not only of the abuses committed but also of the identity of the abusers and/or their commanders.

Two brothers and several other friends were abducted in and around the capital on 30 January 2012 by members of a well-known Tripoli militia, the Suq al-Jumaa brigade. A relative repeatedly asked the militia about the whereabouts and fate of the two brothers and then lodged a complaint with the police was himself abducted on 3 February 2012 and severely beaten and threatened. Though the militia confirmed holding the two brothers, their whereabouts and conditions have not been clarified.

On 5 February 2012, an Amnesty International delegate visited the militia's headquarters at Ma'atiga airport seeking to establish whether these and other people were detained there. Members of the militia said that there were no detainees in their jail and took the delegate to another of their detention centres where, according to the register, only few people were being held for petty common offences. The delegate returned to the Ma'atiga headquarters

and saw that a small group of detainees were being brought back to their cells in the detention centre. It became clear that they had been moved to another section behind a heavy metal door and told to keep quiet when the delegate first arrived. Most of the inmates bore marks of torture on their legs, backs and buttocks. One clearly terrified detainee, who the militia had continued to try to conceal, had been badly beaten on his face, body and hands. Guards said that the men had not been beaten in the jail but in the interrogation building across the courtyard. All the detainees were held for common-law offences; some said that they had indeed committed the offences, while others protested their innocence.

B1 is a 29-year-old former soldier who lives in Tripoli. He gave Amnesty International pictures of his torture wounds and described what had happened to him:

"On about 3 November I was with my cousin in the Gorji area of Tripoli visiting a friend. We were walking in the street and wanted to catch a cab to get back to the house of my brother in the Abu Salim Mashrua area of Tripoli. Suddenly, two armed men whom we did not know walked up to us and forced us into their vehicle. It was a small bus and 'Thuwar Jabal Nafusa' [Revolutionaries of the Nafusa Mountains] was written on it... We were blindfolded and taken to an unknown location that was apparently previously used as a workshop."

"At this location there were four more men who were with them. I was accused of having fought with al-Gaddafi's forces. I told them that I had not returned to the troops since March.

"Then they forced me to lie on my back on a bed and my hands and legs were tied to the frame. In this position was beaten with fists on my face. Then they beat me with a plastic hose on my feet. Later, I had to turn around face-down and was tied again to the bed. In that position, I was beaten again with a hose on my back and on the head. I was also subjected to electric shocks to various parts of my body including my left arm and chest. The instrument they used was a black stick about 50cm long. My cousin was also subjected to electric shocks.

"The torture lasted until about 3am. Then they put us in a vehicle and drove us back to the road to Tripoli, where they left us."

B2, a 22-year-old security guard working for a company in Tripoli, described his torture in a militia's detention centre in Tripoli. He told Amnesty International that he and three of his fellow security guards were detained at their homes by militia on 2 October and taken to a detention centre in the Abu Sitta area of Tripoli. They were accused of killing a member of the militia. B2 said that he was beaten with a stick, suspended upside-down and subjected to electric shocks. A week later he was transferred to a detention centre in Suq al-Jumaa, where he was held for three weeks and also beaten. Subsequently, he was held at Ain Zara Prison until the release of all four was ordered on 23 December 2011. However, following protests against their release, B2 was re-detained on 26 December 2011 and taken to the detention centre of another militia, where he was hit and insulted. On 30 December 2011, he was beaten on the soles of his feet (the torture method known as falaqa). He said:

"They took me to an office upstairs where they tied my legs to a stick and began beating me with a hose on the sole of my feet... I was not blindfolded and could see those involved in beating me. There were about six guards – including the two who subjected me to falaqa."

Several people taken to a militia's detention facility in Janzur near Tripoli described their treatment there to Amnesty International.

B3, a 40-year-old former police officer, married with three children, who had already been detained by militia in early December 2011, explained what happened when he was held there for one day in January 2012:

"On 19 January at about 9am a group of armed men came to my home in Janzur. They handcuffed me and took me to the soap factory. I was taken for interrogation on the first day. I was beaten with a belt and with a stick. They mainly hit me on the shoulder and back. This lasted for about 30 minutes. However, there are no more traces left."

B4, aged 23, who showed an Amnesty International delegate bruising still visible on his lower left leg, said:

"On 18 January at about 6am I was stopped while driving near the headquarters of the local militia in Janzur. They took me to the offices of their headquarters. They accused me of having stolen goods, but I was delivering those goods as a driver. Then they said I was driving an unlicensed car. About 15 minutes after our arrival, they took me to another room where I was told to stand with my face against the wall. There were several men in the room, maybe up to seven. They beat me with a belt and with a stick. One stick broke from the beating. After about one hour the beating stopped."

Another man held at the same detention facility, 22-year-old B5, a graduate in computer science and a member of a family of perceived al-Gaddafi supporters, told Amnesty International that on 29 December 2011, at about 10am, he and his brother were taken from their family home in the Ghot al-Shaal neighbourhood of Janzur by members of a militia. B5 said:

"They started beating me on the way to the detention centre. They also used swear words. At the detention centre I was suspended from the iron bars of a gate and was beaten with a stick and a cable. This lasted for some hours. Afterwards I was taken to another room for interrogation where they gave me electric shocks. They tied my legs while I was lying on the floor on my back. Two live wires were connected to the toes of my feet. I believe they used the electric current from the socket. They gave me electric shocks six or seven times. Then I was taken to a separate room where I stayed for three days."

A non-Libyan Arab, B6, a 55-year-old electrical engineer who lives with his Libyan wife in Janzur, still had bruising on his buttocks when he spoke to Amnesty International. He said:

"On 4 January at about 10pm I was detained by members of the [militia] in Janzur because a Libyan woman with whom I had an argument – and I may have pushed her – had filed a complaint. Although the woman withdrew her complaint against me three days later, I remained in detention. After several days they took me for interrogations. There were three of them in the room and one of them told me that as a foreign national I should behave with Libyan women. They told me to take my trousers down and to lie on the table. Then one of them took a hose and beat me. The bruises on my back parts are still visible. They also kicked and boxed me with their fists."

B7, a 26-year-old cigarette seller, was detained on 9 October by militia at his home in Sirte and taken to the National Military Security in Misratah, where he remains and is subject to frequent beatings. He described how he was treated on 19 January, when he was taken to the interrogation office, where there were several people in civilian clothes:

"One person took a glass bottle and hit my head. Then they forced me to sit on the floor and tied my hands to the back. They kicked my head. They beat me all over my body with a hose, with a wooden stick and with a cable used for cars. They wanted information about people I do not know."

DETAINEES OF TAWARGHA ORIGIN

People from the Tawargha area, who are black Libyans, are at particular risk of reprisals and revenge attacks by Misratah militias, because the area was a base for al-Gaddafi troops when they were besieging Misratah and because many Tawargha allegedly supported al-Gaddafi forces during the conflict. The number of Tawargha people among the detainees appears disproportionately high and most of those interviewed by Amnesty International said they had been tortured or ill-treated.

B8, a 26-year-old soldier of Tawargha origin, was detained on 26 September 2011 by militia about 20km south of Sirte while travelling with his family to Jufra. That evening he was transferred to a detention centre of Military Police in Misratah, where he remained for two to three weeks. There, he said, he was abused, including by being beaten with a plastic cable. After being transferred to various other detention centres, generally without being ill-treated, he was taken in early January to the detention centre of the National Military Security in Misratah. He told Amnesty International:

"This morning [probably 3 January] they came and took me to the interrogation office upstairs. There were about five men in civilian clothes in the office. I was insulted for being from Tawargha. I told them that I was based as a soldier in Sirte and did not participate in the fighting in Misratah. However, they did not believe me. They took turns beating and whipping me. They also beat me on my right hand which is now swollen and on my head. They suspended me from the top of the door by my wrists for about an hour and kept beating me. They also kicked me. I still have pain in my left side. They blindfolded me before they brought me back to the cell."

B9, a 45-year-old army officer from Tripoli of Tawargha origin, was abused while held at a militia's detention facility in Tripoli. After the fall of Colonel al-Gaddafi in August, he did not report for duty for some weeks. However, after a public appeal for people to return to work, in October he reported to the military base in Tripoli which had been taken over by a militia with links to Misratah.

"On 2 January 2012 at about 5.30pm I was taken by about 10 armed men – some in camouflage uniforms, others in plain clothes – from my home in the centre of Tripoli. They took me to the base of their [militia] in Tripoli where I remained held for about 24 hours. Upon arrival at the base, I was taken to an office for interrogation. Then they took me to a nearby room where they tortured me. Those involved in the torture took turns – there were

about four to six people involved.

"Even before I was asked the first question I was beaten with a wooden stick and a heavy rubber cable while I was tied with one wrist to the iron bar of a window and with the other to a metal locker or cabinet.

"Later they tied me to the metal frame of a bed and beat me again with a rubber cable. The beating caused bleeding injuries and scars are still visible on my body. The beating also dislocated my right shoulder, which needed surgery. Two weeks ago my whole body was covered in bruises.

"They also subjected me to electric shocks through live wires while I was lying on the floor. They put the electricity to different parts of my body – including my wrists and toes. At one point I fainted and they threw water at me to wake me up."

He said that he believes that the only reason he was detained was that a colleague reported him to the militia for being of Tawargha origin.

B10, a 40-year-old soldier from Tawargha, married with five children, was abused in Dafniya detention centre, near Misratah. He said that he and another soldier from Tawargha were detained by members of a Misratah-based militia on 9 January 2012 at the Tawargha camp near Airport Road in Tripoli:

"On about 9 January two armed men came to the camp where we live in Tripoli... The two men had a document issued by a militia with my name and the name of the other person on it which they showed us. They took both of us initially to a detention centre in Tripoli where we stayed for three days. There was no beating at that place. After three days we were taken to a detention centre near Misratah. We arrived at the detention centre in the evening and two men, one in uniform the other in plain clothes, began torturing us even before asking questions. We were both present when the other one was tortured and they did the same things to both of us. They gave us electric shocks with a taser. They also beat me with their fists and they kicked me while I was lying on the floor. They asked if I was with al-Gaddafi's troops during in the fighting. This lasted for about one hour or more. After this they did not beat us again."

DETAINEES OF MSHASHIYA ORIGIN

Members of the Mshashiya and from Qawalish tribes in the Nafusa Mountain area have similarly been targeted by militias because of their alleged support for al-Gaddafi forces during the conflict. People from the Mshashiya tribe and Qawalish village are particularly targeted by militias from Zintan.

B11 is a 20-year-old soldier who originates from the Mshashiya region but lives with his parents in Tripoli. Amnesty International saw him in January 2012 soon after his release from detention when he was being treated in hospital for torture injuries and was hardly able to talk. His elder brother reported:

"On 16 January in the evening about 10 armed men with two vehicles – apparently from a militia from Zintan – came to our family house Tripoli. The armed men did not show an arrest

warrant. There was a man accompanying them [who was apparently related to one of the militia men] and he accused my brother of having pulled a knife on him in an incident that occurred about seven months ago and in which no one was injured. The armed men took my brother away. The next day my father and I looked everywhere for my brother and were finally able to collect him from a detention centre near the Tripoli International Airport. After his release my brother told me that he was initially taken to a farm near the airport where he was abused. He said he was tied to a post and beaten, including on his back, legs and genitals. The armed men who abused him were apparently the same who had taken him from the house."

DETAINEES FROM SUB-SAHARAN AFRICA

People from sub-Saharan Africa who have been detained by militias have been particularly vulnerable to abuse. While many Sub-Saharan Africans were detained during and in the weeks after the conflict because of the belief that al-Gaddafi forces used African mercenaries to fight pro-NTC forces, many are now being held because of their suspected "illegal" status or related issues.

When Amnesty International delegates visited Ain Zara Prison in January 2012, about 400 out of approximately 900 detainees were foreign nationals, mainly from Sub-Saharan Africa. According to the prison administration, about 10 per cent of the foreign nationals were accused of having fought during the conflict. Several Sub-Saharan Africans interviewed by Amnesty International in detention and after release said they had been tortured or ill-treated.

B12, a 36-year-old Sudanese man, was arrested at the drugstore he runs in the Abu Salim neighbourhood of Tripoli. His friend, also 36 and from Sudan, who was working as a cook, was arrested with him as he was in the drugstore at the time. B12 told Amnesty International:

"On 22 December at about 3pm a man in plainclothes came to my shop in Tripoli. He came without an arrest warrant and took me and a friend into a vehicle that was waiting. In the vehicle were two Libyans working with him. They took us to the local council of our neighbourhood where we were kept until noon the next day. We were not ill-treated there. On the second day in the afternoon we arrived at Ain Zara Prison. Soon after our arrival we were beaten by a group of 8-10 guards. My friend was punched on his nose by a guard. My friend still has a scar on his left wrist caused by a guard beating him with a stick. We were also beaten with a hard water hose.

"At Ain Zara I shared a cell with my friend, another Sudanese and four other foreigners. There is a special section for foreigners at Ain Zara Prison. On 24 December we were before the interrogators at the prison... The interrogator proposed that if we wanted to be released, we should collect money from friends so that we could be returned to Sudan. We refused and were sent back to our cell. On about 29 December we were taken again before the interrogators who ordered our release."

One of the Sudanese men who shared a cell with B12 and his friend, 27-year-old **B13**, described what happened when he was taken to Ain Zara Prison:

"I was beaten on arrival. One guard beat me on the back of my head – apparently with a hard water hose – and this caused severe bleeding. They took me to the prison clinic where the injury was stitched."

All three men were freed on 1 January 2012 and issued with a document signed by the director of Ain Zara Prison, stating that they were released "without bail".

B14, aged 25, is an Oromo without nationality. He told Amnesty International:

"On 8 November I was travelling with a group of foreigners by bus from Benghazi towards Tripoli. There were about 60 people in the bus including Egyptians, Libyans and Somalis. At a checkpoint near Misratah we were stopped and armed men entered the bus. They asked for our identity documents and a group of 10 Somalis and I were told to get off the bus. The bus moved on without us.

"We were taken one by one into a room for questioning. When I entered that room there were two men in the room shouting at me. They said things like: 'We do not want you Africans anymore, al-Gaddafi brought you. Now he is gone and you can go home'... One of them put the magazine of his Kalashnikov next to my head and fired several shots out of the window... Then they started beating all over my body – including my genitals. They used an elastic black stick to beat me. They also kicked me. The other Africans were also severely beaten.

We were held for about 4 days at the checkpoint. On the fifth day they took us to a detention centre in Misratah where we stayed in one room... we had to stand with our face against the wall. We had to take off our shirts and they beat us with wire cables on our backs. My back was bleeding and at night I could hardly sleep from the pain. After several days they decided to let us go."

B15, the 19-year-old brother of B14, also shared with Amnesty International the abuse he had suffered:

"On about 26 October I travelled together with a man from Eritrea from Benghazi towards Tripoli when we were stopped by armed men in Sirte. They held us for three days at a place I do not know in Sirte. We were beaten many times with a plastic cable... After three days a man came and took us to a place in the desert where we were told to look after his goats. We were left there for several weeks and did not receive any payment. Finally we decided to run away.

"After about three days without food and water we were picked up by a Libyan man. He drove us to a militia in Misratah, told them that he believed we were mercenaries and left us there. We were told to remove our shirts and beaten with a rope on our back. They accused us of being mercenaries. The next day I was taken to a room where they gave me electric shocks to various parts of my body – including my arms and my back. The following night they tied my legs to a chair, forced me to bend over and beat me with a stick on my back. After about one week we were told to go. Luckily, I had hidden some money in a sock so we could make our way to Tripoli."

Members of militia have also abused foreign nationals without arresting them. For example, a Sudanese man told Amnesty International that in November 2011 he was stopped by armed men on his way from Benghazi to Tripoli. He and other foreign nationals from Africa were accused of having no legal status and threatened. Some were hit.

The NTC has promised to respect Libya's obligations under international human rights law.¹¹ Libya is a state party to the ICCPR and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and as such the authorities must prevent torture, investigate whenever there are reasonable grounds to suspect acts of torture and other ill-treatment have occurred – even when no official complaints have been made, bring those responsible to justice, and provide reparation to victims. The authorities are also required to take concrete measures to prevent torture and other ill-treatment, including by granting independent bodies the right to monitor the situation of detainees in all prisons and other places of detention. In both respects, the transitional government has failed to fulfil its obligations.

4. DEATHS IN CUSTODY

The post-mortem found bruise marks in parallel lines across the body; marks of electric shocks; two nails missing on the left hand; burn marks on the forehead, right forearm and left wrist; bruising around both ankles; and severe abrasions on the soles of the feet.

Report into the death of Fakhri al-Hudairi al-'Amari, who died on 19 November 2011

Amnesty International has detailed information about at least 12 abused detainees held by militias who have died since September 2011 in their custody or in hospital within hours of being taken there from detention. Amnesty International has seen forensic reports or spoken to examining doctors about nine of these cases. In all, bruises or other evidence indicating torture or other ill-treatment was found and in several cases the forensic examination concluded that death was caused by the abuse. In at least 10 of the cases, the authorities have been informed of the deaths. Eight of these cases happened more than three months before the writing this report, and no effective measures have been taken to bring the perpetrators to trial. Relatives of several of the victims told Amnesty International that they were deeply upset that the authorities had failed to take appropriate action to investigate the death and hold those responsible to account for their crimes.

C1, aged 36, a factory worker from Tawargha who was married with three children, died within a day of being detained on 12 September 2011 in Tripoli by a militia from Misratah. The militia stopped him and some of his relatives in their car. The female relatives and children were ordered out, and then the militia drove off in the car with C1. One witness said the car was initially stopped by about five armed men, then more armed men arrived. Another said that one of the militia's vehicles had launchers for rocket propelled grenades and the name of a Misratah-based militia written on the side. Until the family found his body about one month later at a hospital in Tripoli they had no knowledge about his fate.

Forensic examination found patterns of injuries showing that he had been beaten with instruments and indicated that he had died as a result of abuse. The family submitted a complaint to the police, but no effective investigation into the circumstances of his death had been conducted.

Abdelhakim Milad Jum'a Qalhud, a 50-year-old school director married with seven

children, from the town of al-Qarabuli, east of Tripoli, was detained at his home on 16 October 2011 at about 10pm by members of the local militia. In the following days he was seen twice by doctors. On the first occasion, members of the militia took him to Qarabuli Hospital where he complained of pain in the abdomen and could hardly speak. On the second occasion, a doctor was called to the detention centre where he found the patient unable to speak or move. On both occasions doctors found multiple bruises all over his body and urged hospital treatment. The militia ignored the medical advice and on 25 October 2011 armed men delivered his body to the local hospital. His family, who had been told by militia on his arrest that he would be returned the same night after questioning, heard no further news until 26 October 2011, when they were told he had died. Forensic examination found patterns of injuries showing that he had been beaten with instruments and concluded that he died as a result of abuse. The forensic report described abrasions and bruising on the upper and lower limbs, back and genitals, and ligature marks on both wrists. The prosecutor went to the hospital to see the body.

Fathi Imhamed Ali al-Heimer, aged 26, was seized by a militia as he approached a mosque near his home in Tripoli on 5 October 2011. The next day, at 10pm, the militia went to his home and also took his brother to a detention facility in the militia's headquarters. The brother told Amnesty International that he was placed in a cell with his brother, who had by then already been badly beaten on his face and body. The militia then beat Fathi in front of him. He said he was not himself beaten much, but was given electric shocks – four times on the first day. On his second day there, he said the militia took Fathi out for 10 minutes or so and beat him again. Fathi's brother was released after six days, but Fathi remained in detention.

Their father went to the militia's headquarters and at first he was told that Fathi was there but visits were not allowed. About three weeks later he was told that Fathi had been moved to Zintan and then to Al-Qalaa, near Yefran. The father went to the local militia headquarters in both places but could not find him. A nurse then told the family that Fathi's body was in the morgue of Tripoli's Central Hospital. The family told Amnesty International that the body bore deep bruises all over and burn marks from electric shocks. According to the death certificate Fathi's hands and feet were bound when his body had been brought in by the al-Qalaa local council. The family lodged a complaint with the police who, according to the family, forwarded it to the military prosecutor in the capital.

According to the forensic examination Fathi had been beaten numerous times all over his body, his hands and legs had been tightly bound, causing bruising and abrasion, had been injured with hot metal objects, and someone had pressed down on his neck. It concluded that death was caused by the beating which inflicted multiple injuries all over his body.

Abdellatif (Lotfi) Iyad Mohammed Zbeida was detained on 11 September 2011 by a militia from Misratah near Tripoli but immediately handed over to a local council. He was subsequently moved to the Sidi Khalifa Military Council, in the former Internal Security building in downtown Tripoli (Jumhuriya Street, now 17 February Street). The family was able to visit him once and on occasions he was able to call them on the phone of a sympathetic guard. The last call came on 22 October, asking for food for Lotfi, which the family took to the detention centre and it was accepted.

On the night of 25/26 October, Abdellatif Zbeida was badly beaten and at 7am he was taken to the nearby central hospital. He died almost immediately. Video footage filmed at the morgue shows Abdellatif Zbeida's back completely black with deep bruising from the shoulders to the knees, open wounds and missing flesh in his lower legs and chest, and deep whip marks and cuts on his upper arms. The forensic examination found deep bruises and abrasions all over the body, as well as marks on his head, ears and nipples caused by electric shocks. It concluded that death resulted from the severe abuse which also caused these wounds.

Fakhri al-Hudairi al-'Amari died on 19 November as a result of torture. The post-mortem found bruise marks in parallel lines across the body; marks of electric shocks; two nails missing on the left hand; burn marks on the forehead, right forearm and left wrist; bruising around both ankles; and severe abrasions on the soles of the feet.

Aged 31, married with two children, he had been a police officer in Tajura, a suburb of Tripoli, for about 12 years. On 17 October at about 7am, dozens of armed men went to homes of the family in the rural area of Qasr al-Akhyiar about 50km east of Tripoli. The names of several militias were daubed on their vehicles, names noted down by the family. The armed men ransacked the house, stealing money and mobile phones, threatened the inhabitants, and took away Fakhri and four of his brothers – Muhammad, 'Emad, Haythan and Ibrahim. All five were taken to a detention centre in Tajura.

After their arrival, Fakhri was separated from his brothers and they did not see him again. On about 24 October the four brothers were released but Fakhri was not. On 14 November a person called a family member and reportedly offered the release of Fakhri in exchange for his car. The following day Fakhri was allowed to briefly call his wife and he told her that he was fine.

On 19 November the family received a phone call from Abu Salim Hospital informing them that Fakhri al-Hudairi al-'Amari had been taken there but was critically ill. Family members rushed to the hospital but he was no longer able to communicate and died within minutes of their arrival. Images of the body seen by Amnesty International show deep bruising all over the body and limbs, as well as open wounds on the soles of the feet.

'Ezzeddine al-Ghool, a 43-year-old former army colonel and father of seven, was detained by a militia based in Gharyan, 100km south of Tripoli, on 14 January 2012 and died within 24 hours. The forensic examination found deep bruising and wounds caused by blunt objects all over the body and several fingernails removed, and concluded that he had died as a result of the injuries sustained. At least nine other men who were detained at the same time also said they were tortured. Eight of them needed hospital treatment abroad for serious injuries. One of them told Amnesty International that he had been made to kneel facing the wall with his hands cuffed behind his back and repeatedly struck by different people with a metal chain, plastic hose, electric cables and a metal bar. He said that some of those detained with him had been even more severely beaten and that at least one of them had had some of his fingernails pulled out.

Despite strong forensic and other evidence that all these men died as a result of torture while detained by militias, by early February 2012, no effective investigation into the

circumstances of their death had been conducted. Some initial investigations appear to have been conducted in a recent high profile case.

Omar Brebesh, aged 62 and Libya's former ambassador to France, died on 20 January 2012, apparently as a result of torture, the day after he was detained by a Tripoli-based militia at their base in the Tripoli neighbourhood of Crimea. Pictures of his body, seen by Human Rights Watch, showed extensive bruising on the abdomen, cuts on both legs, a large wound on the left foot and the apparent removal of toenails. Human Rights Watch also saw a report by the judicial police in Tripoli that stated that Omar Brebesh had died from torture and that an unnamed suspect had confessed to killing him. It was reported that the prosecutor in the town of Zintan opened an investigation into the death.

5. REVENGE ATTACKS AND FORCIBLE DISPLACEMENT

'At one point the militias shot indiscriminately towards the demonstrators... That is when Hanin and the others were killed.'

The sister of 12-year-old Hanin Salah 'Aquila Zayed who was killed on 6 February 2012 during a protest against killings of people in a camp for displaced people from Tawargha

From the first days of the uprising in February 2011, opposition fighters carried out revenge killings and other attacks against individuals associated with the al-Gaddafi regime or suspected of having committed crimes on its behalf. As opposition fighters took control of more and more cities and towns from al-Gaddafi forces, such attacks increased in frequency and scale, resulting in entire villages and communities being displaced. Cases documented by Amnesty International and brought to the attention of the NTC since April 2011, including in its September 2011 report, *The battle for Libya: Killings, disappearances and torture*, have not been investigated by the authorities,¹² and revenge attacks by militias made up of former opposition fighters continue.

TAWARGHA PEOPLE

In August 2011, having driven al-Gaddafi forces out of the town of Tawargha, 30km east of Misratah, opposition fighters from Misratah attacked the town and those still living there. They forced the entire population of some 30,000 to flee and looted, vandalized and burned down their homes and properties. Since then, Misratah-based militias composed of former opposition fighters have continued to systematically destroy and burn down homes and infrastructure in Tawargha in order to make it impossible for people to return.

Amnesty International delegates who visited the town in September 2011 and again in February 2012 noted a marked increase in the scale of the destruction. The militias, largely supported by Misratah's civilian and military and security authorities and by many of Misratah's residents, have vowed that the inhabitants of Tawargha will never be allowed to return. Even the name of the town on road signs on the outskirts has been systematically rubbed off or painted over. The homes and properties of Tawarghas who used to live in Misratah itself have similarly been looted and torched. In addition, militias from Misratah have continued to hunt down and terrorize the displaced inhabitants of Tawargha all over Libya.

The latest such attack reported at the time of writing happened on 6 February in and around

a camp for displaced Tawargha residents in Janzur, a suburb of Tripoli. Seven civilians, including three children and an elderly woman, were shot dead and at least 13 others were shot and injured in the attack. Two of the victims – a 58-year-old man (**Juma'a al-Gaddafi**) and a 61-year-old woman (**Najma AbdelQader**) – were shot dead inside the compound of a disused naval base that houses some 2,500 displaced Tawarghas. Five others, including three children – **Hanin Salah 'Aquila Zayed**, aged 12, **Mohammed Atiya Salah Mahjub**, aged 13, and **Frej AbdelMoula Frej**, aged 15 – were killed some 4 km from the camp as they participated in a small demonstration to protest against the attack. According to the forensic reports, the victims died as a result of gunshot wounds to the upper parts of the body.

Hoda Mohammed Bela'id Liqmati, a 25-year-old woman whose brother (Nassereddine Mohammed Bela'id Liqmati) and uncle (Noureddine Bela'id Liqmati) were shot dead in the demonstration and who was herself shot and injured, along with her sister, told Amnesty International:

"We were walking eastward on the main road, towards the town's centre to demonstrate about the killings of two elderly people in our camp earlier that morning. A militia vehicle, a pick-up truck with an anti-aircraft machine gun mounted on the back, drove past us and the militia men hurled threats and abuses at us. They wore camouflage clothes. There was indiscriminate shooting from the militia. My 20-year-old brother Nassereddine was shot and fell [he was shot in the abdomen and in the leg]. I ran to help him and as I reached him I was shot in the left thigh and fell down. My sister, Hammala, rushed over to help us and she was herself shot in the back and is now in a serious condition."

When Amnesty International visited Hammala in hospital her condition was indeed serious and she spoke with difficulty. Her testimony is consistent with the incidents described by her sister.

The sister of Noureddine Bela'id Liqmati told Amnesty International that her brother was shot in the chest while standing among other demonstrators.

The sister of the 12-year-old Hanin Salah 'Aquila Zayed told Amnesty International:

"At one point the militias shot indiscriminately towards the demonstrators. People ran in different directions, each trying to find shelter from the fire. That is when Hanin and the others were killed and others were injured. Hanin was shot in the neck. I was standing near her."

The two other children killed were apparently chased and shot as they tried to run away to safety. Their bodies were found on the beach a few hundred metres away. According to the forensic examination, Frej AbdelMoula Frej was shot three times in the back and once in the right arm, and Mohammed Atiya Salah Mahjub was shot once in the chest and once in the knee.

Survivors and witnesses of the attack told Amnesty International that among the armed individuals who stormed the camp early on 6 February were members of Misratah militias who they recognized from previous raids, and others who said they were Ministry of Defence

personnel.

In Misratah, members of the scores of local militias as well as local authorities and many residents accuse members of the Tawargha community of having raped and killed civilians in Misratah when they fought alongside al-Gaddafi forces during the conflict between March and May 2011. At present, it is impossible to establish if such allegations are true as none of those detained in relation to the conflict has yet been brought to justice.

Hundreds of Tawarghas have been seized by Misratah militias from the capital and other towns, and taken to Misratah where they have been arbitrarily detained and tortured. Some have died in detention and others remain unaccounted for. The scores of Tawarghas interviewed by Amnesty International in detention centres, camps for displaced people, and elsewhere refuted the allegations against them. Many acknowledged that they fought alongside al-Gaddafi forces, most as members of the armed forces and some as volunteers, but said they did not commit rape or murder. Several detained Tawarghas said that they had been repeatedly beaten and tortured to make them confess to such crimes. Some said they had confessed because of the torture.

Many inhabitants of Tawargha did support the former regime throughout the conflict and many served in al-Gaddafi's armed forces during it. However, some Tawarghas told Amnesty International that al-Gaddafi forces based in the town during the conflict did not allow inhabitants to leave, exposing them to the incoming fire from Misratah-based opposition fighters. Whatever the extent of support for al-Gaddafi forces in Tawargha during the conflict, the entire population of the area continues to pay the price for the crimes allegedly committed by some members of their community.

MSHASHIYA PEOPLE

Other communities elsewhere in the country have also suffered revenge attacks and in some cases been driven out of their homes and villages. They include members of the Mshashiya tribe who lived in the Nafusa Mountain area. In June-July 2011, after opposition fighters from nearby areas and notably from Zintan took control of the area, the entire population of the village of 'Awnya were forced out of their homes by militias from Zintan.

A woman sheltering in a school in Shgeiga with her husband and eight children told Amnesty International in late January 2012:

"On 20 June we fled our home in 'Awnya because the armed militias from Zintan were attacking the place. We stayed in Tripoli for a month and then we came here. When we fled it was summer and our warm clothes, blankets and heaters remained behind in the house. We could take nothing with us because there was no space for anything in the car. Now it is very cold and we lack everything. The little we have was given to us by charitable people and organizations but now we have been told that we have to leave this school because the school year is starting and the school is needed. I don't know where we can go and what will become of us. We have nothing. My husband used to work in the electricity company in Yefren but now he is not working because Mshashiya people are not allowed to go to Yefren. We heard that our homes have been burned down but we have not been able to go to check. We need help to go back home."

Other families from 'Awnya are living in rented accommodation in Tripoli and elsewhere. A teacher and father of four said that since he and his family fled their home in 'Awnya he had been trying to make a living doing odd jobs in Tripoli, but was finding it difficult to provide for the family and pay the rent.

In January 2012, Mshashiya families were hopeful that a reconciliation initiative sponsored by tribal leaders and elders from different parts of Libya would soon bear fruit and that they would be allowed to return to their village. However, no resolution had been reached by mid-February 2012.

'OUTSIDERS' TARGETED

In al-Zawiya, a town that also saw violent confrontations between supporters of the uprising and al-Gaddafi forces, hardened feelings against those who are known to have or are suspected of having supported the former regime and its forces have also resulted in revenge attacks and reprisals by local militias. Like in Misratah, the main targets have been residents of the city who are originally from other parts of Libya and who are mostly dark-skinned.

In the Erzaza housing estate, many apartments have been looted and burned down. The families who lived in these buildings told Amnesty International that they were first told to leave and threatened, and after they left their homes were set on fire. Their neighbours whose homes have not been burned are also staying away because they said they too were threatened with being burned alive in their homes if they stayed.

Some and possibly many of the families who have been targeted in this way did indeed support the former regime and its forces and some of the men may have fought alongside al-Gaddafi forces during the conflict.

A 70-year-old woman whose apartment was burned down told Amnesty International:

"I lived with my two unmarried daughters and my son and his wife. My son was the only one who worked and did not work for the regime, he was a guard at a Chinese company. On 11 December in the middle of the night armed militias came and told us to leave. They were shooting in the air. We left with nothing and had to spend the night with people. The following day they burned our apartment. Now I and my daughters and other women from the families whose homes were burned are sheltering here with kind people, and my son has gone to Tripoli to try to find work, and the men from the other families are scattered here and there. Why we are being targeted like this? Is it because we are black and poor?"

MISRATAH "RETURNNEES"

"No to the returnees, traitors, dogs." Such graffiti is scrawled all over Misratah, notably on the walls of houses that have been burned down, attacked with explosives or seized by militias in recent months and weeks.

The "returnees" are long-time residents of Misratah who are originally from other parts of Libya and who did not stay in Misratah during the height of the conflict, when the city was under siege and attack by al-Gaddafi forces between March and May/June 2011. Their absence is now considered "evidence" of their support for the former regime. This is seen as

justification for scores of families being collectively punished by being banished from their homes and from the city.

A mother of four young children told Amnesty International:

"We have lived in Misratah since we were married in 2000 and all our children were born here and our work is here. During the war we left because we were scared. We first went to Zlitan, then to Tripoli and then to Tunisia. We came back to Misratah in August by boat from Tunisia and we found another family living in our apartment. They said it was given to them by the housing committee. We went to complain to the housing committee but they said that we had left during the war and have no right to come back. We contacted the Local Council but they said they could not help. We went to the Revolutionary Union and they said they could not intervene for now because the family who took our apartment is well connected to a powerful militia. I managed to return to work after getting the approval of the Security Committee but have not been able to get our home back. We now live in a small rented apartment."

A mother of six, whose husband was a colonel in the air force, told Amnesty International:

"We left Misratah in mid-March. I went to Khoms to my family with my children and my husband went to Zlitan. He was killed there in June by a NATO strike. I came back to Misratah with my children in September and found a man from the military police living in my house. His wife let us into the house and said we could stay there but then her husband came with armed men and threw us out. He said: 'This house was yours during Mu'ammar's time but not any more'. One of the militia felt sorry for us and took us to an empty house nearby and said we could stay there but we refused because that house belongs to another family who is in the same situation as us. My old neighbours let us stay at their house for a few days, while I contacted the authorities and did the procedures to get the house back but none of the civil or military committees helped me. At the local council they asked where we were during the war. I said we were staying with relatives in Khoms and they told me to go back to my relatives there. One of them asked me how we got back into Misratah and said we should not have been allowed back into the city. Now we are staying in Khoms with relatives. Three weeks ago I went back to the house to get blankets and heaters and the man who lives in the house first refused to let me take anything and then eventually gave me some blankets but not the heaters. My children all studied in Misratah and they have had to interrupt their studies. I don't know what will become of our family."

Many of the homes that have been attacked or seized are in the south and east of Misratah, in areas that were overrun and taken over by al-Gaddafi forces at the beginning of the conflict, such as Tammina, Kararim, Nusur al-Jaw and Kerzaz, and east of Qasr Ahmad. Many, possibly most residents fled these areas at the height of the conflict.

In May 2011, just after al-Gaddafi forces had been driven out of Misratah by opposition fighters and NATO airstrikes, Amnesty International visited the areas that had been under the control of al-Gaddafi forces and found that several homes had been destroyed or vandalized and ransacked. Local residents said that al-Gaddafi forces had deliberately targeted the homes of perceived opposition supporters.¹³

Since then, former opposition fighters now organized into numerous militias have carried out similar revenge attacks on the homes of those they accuse of having supported the al-Gaddafi regime and its forces.

Some targeted people were members of al-Gaddafi armed or security forces – as are some militia members and commanders – and they may indeed have supported the al-Gaddafi regime or even participated in the fighting and/or in the commission of attacks on civilians. If so, they should be brought to justice in fair trials based on the evidence against them – not be subjected, along with their entire families, to revenge attacks and intimidation by militias operating outside any legal framework.

To date, “returnee” families who have been arbitrarily dispossessed of their homes, subjected to threats or attacks and effectively banished from Misratah by militias have obtained neither protection nor redress. The various civil, military and security councils and committees that govern the city’s affairs have failed to take any action to stop the abuses. In fact, they have institutionalized such practices by making the potential return of families to their homes conditional on them fulfilling ill-defined “security” requirements. These include completing a form entitled “Security approval form for the purpose of residency”, and providing statements by several neighbours who stayed in Misratah during the conflict that guarantee that the family concerned do not present a security threat and– a condition impossible to meet for those who lived in areas where the entire neighbourhood fled during the conflict. However, securing the neighbours’ guarantees does not necessarily mean that the various military and security committees and councils will approve a family’s return to its home, and even securing approval from the various committees and councils does not guarantee that the decision will be implemented. A family who has been unable to repossess its home despite obtaining the security approval told Amnesty International that the housing committee had not reversed its decision to allocate the home to other people currently occupying it and refusing to leave.

6. CONTINUING SCOURGE OF IMPUNITY

Colonel al-Gaddafi's government took no steps to investigate past gross human rights violations or bring to justice those responsible. The NTC vowed to do so, but has struggled to secure key evidence, such as archived material and government records, some of which has been burned and looted.

The new Libyan authorities face the challenge of re-establishing law and order, and breaking with the legacy of impunity. The challenge is compounded by the widespread availability of weapons and the authorities' lack of control over militias, including over militia members who commit abuses without fear of being brought to justice.

In September 2011, the NTC pledged to put "its efforts to bring any armed groups under official authorities and will fully investigate any incidents brought to its attention."¹⁴ This pledge has not been fulfilled. As long as defence lawyers and judicial authorities have no access to thousands of suspected al-Gaddafi loyalists in detention, the detainees remain held without trial or any means to challenge the legality of their detention; and those among them who have committed crimes cannot be brought to justice.

While the Pre-Trial Chamber I of the International Criminal Court (ICC) issued an arrest warrant against Saif al-Islam al-Gaddafi for his alleged criminal responsibility for the commission of murder and persecution as crimes against humanity, he was arrested in November 2011 in Libya by members of militia from Zintan. Subsequently, the Libyan authorities expressed wish to try him under Libyan legislation. However, according to the Office of Public Counsel for the Defence of the ICC the Libyan authorities have failed to provide him with access to a lawyer and they have also failed to bring him before a judge to determine the legality of his detention.¹⁵

However, the Libyan authorities have generally failed to take action against opposition fighters and supporters who unlawfully killed suspected al-Gaddafi soldiers and loyalists, and alleged "African mercenaries", when towns including al-Bayda, Benghazi, Derna and Sirte first came under their control. Some victims were beaten to death; some were hanged; others were shot dead after they surrendered or were captured.

Members of Colonel al-Gaddafi's security apparatus and other suspected loyalists were targeted for revenge attacks. Several were found dead after they were seized by heavily armed men; some of the bodies were found with their hands tied behind their backs. For example, Hussein Gaith Bou Shiha, a former Internal Security Agency operative, was taken from his home on 8 May 2011 by armed men and the next morning was found dead near Benghazi. He was handcuffed and had been shot in the head.

In a number of prominent cases of extrajudicial executions believed to have been carried out by opposition fighters, investigations were announced, but months later no further news had emerged. For example, Abdul Fatah Younes al-Obeidi, former Secretary of the General

People's Committee for Public Security (equivalent to the Interior Minister) who defected to the opposition in February 2011, and his two aides, Mohamed Khamis and Nasser Mathkur, died from gunshot wounds in late July 2011. Armed men had taken them for questioning to a military camp in Gharyounes on 27 July 2011 and later allegedly to another location. In November 2011, a list of possible suspects – including a former NTC member – was announced but no further developments were reported.

The NTC announced an investigation into the deaths of Colonel al-Gaddafi and his son Mu'tassim after they were captured alive and apparently extrajudicially executed on 20 October 2011, but no findings have yet been made public.

No action has been taken to investigate the killing of 65 people whose bodies were found on 23 October 2011 in the grounds of the Mahari Hotel, which at the time served as the opposition fighters' base in the city of Sirte. Some of the bodies had their hands tied behind their back and many had been shot in the head. Video footage taken by opposition fighters themselves on 20 October 2011 shows them hitting, insulting, threatening to kill and spitting at a group of 29 men in their custody, many of whom were found dead on 23 October 2011 at the hotel. One of the opposition fighters is heard saying "take them all and kill them". Among the 29 men seen in the video in the custody of the opposition fighters are civilian residents of Area 2 of Sirte and men from other parts of Libya, some of them long-time residents of Sirte and some who may have been volunteers with al-Gaddafi forces. Families of some of the victims who were residents of Area 2 told Amnesty International that their relatives had stayed in their homes to prevent possible looting. Other residents of Area 2 who had also remained in the area until 20 October 2011 also told the organization that they had remained because they feared that if the area was left empty their properties would be looted.

A relative of one of the victims shown in the video told Amnesty International:

"The situation became more uncomfortable in the city; there was no electricity or water and the shops were closed and so the women and children of the family left the city and went to stay with relative. My brother and I stayed at home to protect the house. We had no idea what was happening outside except that we heard shooting and shelling. We did not leave the house for days and when we left to go to our neighbours, we crawled against the walls for fear of the shelling. On 20 October the shelling intensified even more and we thought that if we stayed we would be killed. We saw many cars leaving the area and we decided to follow them and leave town. I was in a car with my brother and other neighbours; he could not walk because he had been previously injured by a shell which had landed on our house."

"As we were driving to leave town there was a lot of shooting and shelling and I got out of the car and fled on foot... I was caught by the thuwwar [revolutionaries] and detained till night and then one of them who knew me and knew I had nothing to do with any fighting vouched for me and they released me. My brother and other neighbours were caught by another group of thuwwar and their bodies were later found in the garden of the Mahari Hotel."

Similar impunity has been apparent in the cases highlighted in this report of people who were tortured to death, even though the prosecutors have seen the scarred bodies of the victims, families have lodged complaints, and Amnesty International and others have publicized the cases.

INEFFECTIVE PROSECUTION SYSTEM

Amnesty International has raised its concerns with prosecutors in different parts of Libya

about the lack of investigations into abuses by former opposition fighters/militias. Some said that they had not received complaints or that they had passed the file to the General Prosecutor in Tripoli. Others said that they are simply not able to carry out their work because they have neither the resources nor the protection. One prosecutor told Amnesty International:

"If we issue arrest warrants there is no police/security forces to enforce them. For cases of common law crimes the police [now national security] can enforce warrants, or we can get the kata'ib [i.e. militias] to arrest the suspects. But in these sensitive cases against the [militia], it is not possible for now. Anything could happen; I cannot take such risk with no protection, no one to care for my safety."

Asked why prosecutors were not inspecting unlawful places of detention and taking steps to have them closed down, several prosecutors told Amnesty International that without a clear mandate and backing from the General Prosecutor and a functioning police/security force to ensure the safety of the prosecutors, it was impossible to undertake such activities.

7. CONCLUSIONS AND RECOMMENDATIONS

The Libyan authorities face a considerable challenge in their efforts to bring under control the numerous militias that have largely taken the law into their own hands and to ensure the necessary reforms of the judicial system and its effective functioning. In a period of transition, it is imperative that the authorities firmly demonstrate their commitment to turning the page on decades of gross and widespread violations in Libya. They must uphold human rights in the present and exercise the necessary political will to ensure that impartial and independent investigations are conducted into war crimes and human rights abuses committed by both al-Gaddafi forces and by anti-Gaddafi fighters and militias. All those responsible for such crimes, regardless of their political positions, must be brought to justice in fair trials in compliance with international standards. The Libyan authorities must also ensure that those who have committed, ordered or condoned human rights abuses are excluded from positions that would allow them to repeat such abuses. They must also send a strong signal to their supporters – including through further public appeals – and to the public at large that torture and other ill-treatment and reprisals and revenge attacks will not be tolerated and that the same human rights standards will be applied to everyone.

Amnesty International calls on the Libyan authorities to implement the following recommendations as a matter of priority. Amnesty International also calls on all Libyan militias to cooperate with the Libyan authorities, in this respect:

Detention

- End arbitrary detentions immediately, and ensure that arrests are only carried out by security forces authorized by law and that no one is deprived of their liberty except in accordance with procedures and on grounds prescribed by law. All laws in this regard should comply with Libya's obligations under international law.
- Order the closure of all unofficial places of detention and place all detention facilities under the oversight of the General Prosecution and the Ministry of Justice, with provision for independent monitoring.
- Notify detainees' families of where they are detained and ensure that all those detained have access to families and lawyers, and are given an opportunity to challenge the lawfulness of their detention before a court or are released.
- Establish clear structures and procedures for policing and for the detention of anyone suspected of having committed a recognizable criminal offense.

Torture and other ill-treatment

- Ensure that all those detained are treated humanely, receive necessary medical treatment, and are protected from torture and other ill-treatment.
- Ensure that detainees undergo medical examinations when transferred to official

detention centres and are provided with medical certificates describing any injuries.

- Ensure that prompt investigations are conducted into all alleged or suspected cases of torture and other ill-treatment, and deaths in custody. Investigations should be impartial and independent, and conducted by individuals with expertise in investigating such cases; if necessary, international assistance should be sought.
- Suspected perpetrators of such crimes should be brought to justice in proceedings that meet international standards for fair trial.
- Publicly condemn torture and other ill-treatment of detainees and the targeting of Sub-Saharan Africans and black Libyans, including in forums widely accessible to Libyans such as national television and radio.

Unlawful killings

- Ensure that reported cases of unlawful killings are investigated and that those responsible are brought to justice. This should include fighters or others deliberately killed after having been captured or seized by opposition fighters and militias, and notably the case of the bodies of 65 people found on the grounds of the Mahari Hotel in Sirte on 23 October 2011.

Protection and return of forcibly displaced people

- Take immediate action to ensure that all those who have been forcibly displaced are allowed to promptly return to their homes and that their safety is guaranteed and that they receive redress, including compensation and assistance to rebuild their homes and their lives.
- Ensure that those responsible for any attacks on individuals and communities with the aim of, or resulting in, forcibly displacing them are brought to justice.

Racism and protection of migrants and refugees

- Take steps to counter racism, xenophobia and discrimination against Sub-Saharan African migrants and refugees and dark-skinned Libyans, including by acknowledging that reports on the use of African mercenaries by Colonel al-Gaddafi were wildly exaggerated and by celebrating the diverse ethnic make-up of Libya and the positive contribution of migrants.

ENDNOTES

¹ Militias are often constituted along geographical or tribal lines. Some militias operate only or mostly in or around their towns and villages, while others (notably those from Misratah and Zintan) operate in various parts of the country and have a heavy presence in the capital (a Zintan militia controls Tripoli international airport). In recent months some militias have reportedly become "affiliated" to the Ministry of Defense and others to the Ministry of the Interior. However, in practice even those militias which are now in theory operating under the authority of the Ministries of Defense and Interior are not subjected to any effective supervision or control by the central authorities.

² *The battle for Libya: Killings, disappearances and torture*, Index: MDE 19/025/2011, and *Detention abuses staining the new Libya*, Index: MDE 19/036/2011.

³ http://articles.cnn.com/2012-01-26/africa/world_africa_libya-msf-torture_1_torture-human-rights-group-detainees?_s=PM:AFRICA and <http://af.reuters.com/article/worldNews/idAFTR80U14G20120131>

⁴ BBC, "Libya prisoners make new torture allegations", 28 January 2012, accessed at: <http://www.bbc.co.uk/news/world-africa-16771372>

⁵ OHCHR, 26 January 2012, Human Rights concerns about armed brigades holding detainees in Libya, <http://www.ohchr.org/EN/NewsEvents/Pages/HRconcernsaboutarmedbrigadesholdingdetaineesinLibya.aspx>

⁶ NTC, response to Amnesty International report on Libya, 13 September 2011.

⁷ See, for example, "Rival Libyan militias fight gunbattle in capital", Reuters, 1 February 2012, accessed on 9 February 2012 at: <http://www.reuters.com/article/2012/02/01/us-libya-tripoli-battle-idUSTRE81029420120201>

⁸ Reuters, "Militias given until Dec. 20 to leave town", 7 December 2011, accessed at: <http://uk.reuters.com/article/2011/12/07/libya-militias-idUKL5E7N744N20111207>

⁹ <http://www.icrc.org/eng/resources/documents/update/2011/libya-update-2011-12-01.htm>

¹⁰ MSF, "Libya: Detainees tortured and denied medical care, MSF Suspends Work in Detention Centres in Misrata, 26 January 2012.

¹¹ NTC, "A vision of a democratic Libya", accessed at: <http://www.ntc.libya.org/english/libya/>

¹² See Amnesty International, *The battle for Libya: Killings, disappearances and torture*, chapters 5 and 6, Index: MDE 19/025/2011.

¹³ *The battle for Libya: Killings, disappearances and torture*, p63.

¹⁴ NTC, response to Amnesty International report on Libya, 13 September 2011.

¹⁵ As of February 2012 the decision whether to transfer the case of Saif al-Islam al-Gaddafi to Libya has been pending before the Pre-Trial Chamber and he formally remained under the jurisdiction of the ICC despite the fact that, in violation of their obligations under the Rome Statute, the Libyan authorities have refused to execute the ICC arrest warrant. Public Redacted Version of "OPCD Observations on Libya's Submissions Regarding the Arrest of Saif Al-Islam" (ICC-01/11-01/11-51-Conf, 2 February 2012) <http://www.icc-cpi.int/iccdocs/doc/doc1326934.pdf>

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